

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

ONEWEST BANK, FSB,

Plaintiff,

v.

CIV 12-1193 KBM/WPL

JAMES L. SALAZAR and  
JUDY A. SALAZAR,

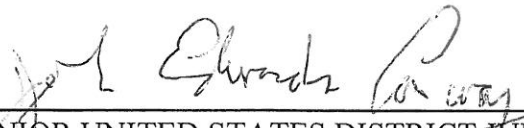
Defendants.

**SUA SPONTE ORDER OF REMAND**

THIS MATTER is before the Court sua sponte on its duty to assure that it has subject matter jurisdiction. The Court finds that this case was improperly removed and must be remanded. There is no federal question on its face, and if the Salazars are relying on diversity jurisdiction, it has been more than one year since the foreclosure action was filed in state court (on Aug. 30, 2011). "No case . . . may be removed from state to federal court based on diversity of citizenship 'more than 1 year after commencement of the action.' " *Caterpillar Inc. v. Lewis*, 519 U.S. 61, 69 (1996) (quoting 28 U.S.C. § 1446(b)). Further, under 28 U.S. C. § 1441(b), if a defendant is a citizen of the state in which the action was brought, he cannot remove it to federal court. Because the Salazars are citizens of New Mexico, they cannot remove this foreclosure action.

Wherefore,

**IT IS HEREBY ORDERED** that this action is remanded to the First Judicial District Court, County of Santa Fe, State of New Mexico.

  
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SENIOR UNITED STATES DISTRICT JUDGE